

**Submission
No 8**

**INQUIRY INTO GRANTING OF CONTRACT NUMBER
OoS17/18-021 BY THE OFFICE OF SPORT**

Name: Mrs Maggie Dawkins

Date Received: 25 August 2021

Written responses to this submission published by resolution of the committee 10 November 2021 are hyperlinked below:

- [Ms Julie Farrell](#)
- [Mr John Vallance](#)
- [Ms Mary Seefried](#)
- [Mr Peter Dingwall](#)
- [Mr Barrie Smith](#)
- [O'Connor Marsden & Associates](#)

Hon Daniel Mookhey MLC
Chair, Public Works Committee
Legislative Council Parliament of NSW

Email publicworks@parliament.nsw.gov.au

Dear Mr Mookhey,

I ask that the Public Works Committee consider my submission to the Inquiry into the granting of contract number OoS17/18-021 by the Office of Sport.

My Background and Involvement in Equestrian Sport

I write as a former member of Equestrian Australia, the inaugural chair of Equestrian Interschool South Australia (2010) and the author of the history of the Gawler three day event which included the only occasion that the world equestrian games was hosted in Australia and in the southern hemisphere.

I was present on the grounds at the Sydney International Equestrian Centre (SIEC) for the Interschool national championships and witnessed how the sport responded to a near fatal accident of a school aged competitor.

Six years later, in 2016, a young rider was killed during competition at the SIEC. My daughter Alice was an eventing rider competing in the international classes, at the time and I witnessed how the sport handled Caitlyn Fischer's death on 30 April 2016 and the death of a schoolgirl, Olivia Inglis, a month earlier at the Scone Horse Trials. I assisted the Crown and NSW Deputy Coroner Lee prior to and during the coronial inquests. I attended the coronial hearings at Lidcombe NSW.

I worked with and encouraged Senators Farrell and Patrick to raise a number of questions in the Australian Parliament. For example, at Senate Estimates hearings on 27 October 2020, questions relating to the issues of the EA High Performance Program, the flawed and unresolved Queensland branch disciplinary tribunals of 2019 and a former board member of Equestrian Australia's involvement in the questionable promotion of the Equestrian Fire Relief Fund were raised in the Australian parliament.

I am a member of Whistle Blowers Australia and serve on the national committee as the contact person to advise and assist with incidents of athlete abuse across all sports.

I have assisted horse owners and riders, parents of young riders and officials of Equestrian Australia with concerns about the safety of the indoor arena at the SIEC. It is through being made aware of the foreign plastic particles which have contaminated the arena surface that I became interested in contract number OoS17/18-021.

Clause (b) and (c) Terms of Reference

- (b) the role played by the board, CEO, and members of Equestrian NSW (ENSW), Equestrian Australia and officials within the Office of Sport, in both the application for funding and the process for selection of the grant by the Office of Sport,
- (c) the potential or otherwise for the existence of corrupt conduct and/or conflicts of interest within the Office of Sport, Barrie Smith Motor Sports P/L and ENSW, in the granting of the contract, with reference to the ICAC letter of 1 December 2020 to the Office of Sport,

On 18 December 2020 Equestrian NSW published a news item replete with inaccuracies. The first sentence:

“The NSW Office of Sport has confirmed that the investigation into the tender process for the arena surface upgrade at the Sydney International Equestrian Centre in 2018 is now officially closed, with no adverse findings made.”

In fact, the ICAC letter to the CEO of the Office of Sport advised that the Commission would not formally investigate the tender process, which resulted in awarding taxpayer funds to a company linked to the son of the then president of Equestrian NSW, due to the “lack of viable lines of inquiry”.

The Commission identified eight corruption risks, including Equestrian NSW CEO Bruce Farrar “appearing to have been afforded a significant amount of involvement” in the tender process.

These weren’t adverse findings? If Equestrian NSW didn’t have the ICAC letter addressed to Karen Jones CEO of the Office of Sport, why did Bruce Farrar and or the Board of Equestrian NSW invent a narrative that is untrue?

Attempts to discover the circumstances which led to the Board of Equestrian NSW presenting a funding submission to the then Minister for Sport, Stuart Ayres on 13 March 2017, for the specific purpose of upgrading a government owned and managed asset, an indoor arena, to attract international level dressage competitions, continues to remain hidden from members of parliament and the public.

If it is correct that the then Minister for Sport, Stuart Ayres, said “that the project was a model for how Government wanted to partner with State Sporting Organisations to deliver facilities across NSW” surely, there are questions that need to be answered, as to the suitability of this model which has now attracted an Inquiry by the Public Works Committee?

In order for the Office of Sport to receive feedback, did it conduct an audit of the SIEC to identify outstanding safety issues? Did the Office of Sport survey organisations that had hired the SIEC facilities to discover what could be improved prior to March 2017? There is no evidence that Equestrian NSW surveyed its members to canvas their views on possible improvements to the facility. If an audit or survey was conducted, where is the documentation and the responses? No evidence of such activity has emerged through FOI documents or from Mr Latham’s SO 52 requests for papers.

On what basis did the Office of Sport and the then Minister, Stuart Ayres decide to allocate funds to the indoor arena and warmup arena, and apparently not consider a range of other improvements at the SIEC which would have benefited a wide range of users of the facility?

On what basis did the Office of Sport invite Equestrian NSW to prepare a funding submission to the then Minister, Stuart Ayres?

Why was Equestrian NSW favoured with an exclusive invitation from Minister Ayres? Why weren't other equestrian hirers given the same opportunity?

Is it usual practice for the Office of Sport to allocate funding for upgrading public facilities by inviting a single sporting organisation to make a submission?

How many other publicly owned and managed facilities have the Office of Sport conducted upgrading projects following this particular process?

The following sentence:

"The Minister approved the funding and BSM were selected to deliver the Otto Sport solution."

Did the Minister approve the funding? The FOI documents show that Office of Sport employees are uncertain and confused as to the funding source. The second part of the sentence that BSM was selected to deliver a solution, begs the question, what was the problem? Who decided there was a problem to be rectified?

Had the Office of Sport sought independent advice on the condition of the arena surface? Bruce Farrar suggested that the world governing body of equestrian sport, the FEI's footing expert, Oliver Hoberg be consulted as the technical advisor. Did the Office of Sport seek Mr Hoberg's assessment of the arena surface prior to inviting Equestrian NSW to make a funding submission? There is no record, email or document available through FOI or SO 52 to establish if the Office of Sport contacted Mr Hoberg.

"Feedback from elite Jumping, Dressage and Eventing riders confirmed that the new arena surfaces were "world class"."

The Office of Sport is in possession of internal emails which confirm it has received concerns and complaints about the quality of the indoor arena surface since 2018. After the national dressage championships in October 2019, Office of Sport officials were asked for photos of the bags of contaminated material collected by SIEC employees and held in the office of SIEC management. In an email thread, officials considered whether to provide them to the equestrian official.

There is nothing "world class" about an arena surface that is second-hand and contaminated with plastic particles. Yet, Bruce Farrar is quoted in *The Australian* newspaper "the arenas were an outstanding success".

In the same article, in *The Australian* newspaper on 13 April 2021:

"NSW ICAC assessments manager Andrew Garcia said Mr Farrar's decision to approach the successful contractor, Barrie Smith Motor Sport, prior to the public release of the tender to obtain a funding estimate to include in ENSW's funding proposal had raised a red flag.

"This could be perceived as a tenderer with links to ENSW being given advance notice of the tender and scope," Mr Garcia wrote. "It is of some concern that the Office of Sport was 'unable to

comment' on whether some of Mr Farrar's actions were the norm for the role he was performing, essentially on behalf of the Office of Sport".

Mr Garcia said it appeared both Mr Farrar and ENSW's potential or perceived conflicts of interest became known among NSW Office of Sport staff, but "were not formally documented" and no plan was set in place to manage them.

"Doing so likely would have reduced perceptions of corrupt conduct having occurred."

Clause (f) Terms of Reference - O'Connor Marsden (OCM) Probity Review

- (f) the engagement of and role played by O'Connor Marsden in the examination of probity issues in regard to the granting of the contract and the failure to examine aspects prior to and following the evaluation and awarding of the contract,

Did the Office of Sport attempt to coverup corrupt conduct by restricting the scope for the independent probity review conducted by OCM? Andrew Marsden refers to the scope of the review as the request for tender (RFT) procurement process.

The objectives of OCM's review are contained in the Office of Sport's terms of reference.

2.1 Assess the compliance of the tender with the NSW Government procurement, policies, guidelines and processes;

2.2 Identify any shortcomings with the Office of Sport's tender process;

2.3 Advise on compliance with best practice probity policies, guidelines and processes, including the declarations of conflicts of interest, including those declared and those not declared.

It was outside the scope of the probity review for OCM to consider how an invitation from the then Minister for Sport Stuart Ayres and/or the Office of Sport to Equestrian NSW to present a submission for funding was appropriate and whether it was standard practice.

Failure to discover and disclose the circumstances of the invitation makes a mockery of objectives 2.2 and 2.3.

Similarly, how the performance management of the contractor by the Office of Sport was outside OCM's brief. While the performance of the contractor during the delivery of the project was declared by OCM as being outside the scope of the review, OCM suggested that the Office of Sport: "should give consideration to ensure that any action taken on the performance of the contractor during the project has been clearly documented in the event that there is a need to refer to this as part of future procurement activities (where reference checking and due diligence activities are being undertaken)."

The Office of Sport ensured that OCM did not examine and disclose the crux of the problem, the circumstances which resulted in how a failed arena surface installed by Barrie Smith Motor Sport at an Equestrian NSW Board member, Alex Townsend's property, was removed and found its way to the indoor arena at the SIEC.

How a second-hand contaminated surface, was accepted by the Office of Sport, in contravention to the contract provisions, was withheld from the scope and conduct of the probity review, requires investigation by the Committee.

OCM were provided with the Tender Evaluation Plan and the Tender Recommendation Report which should have given any probity reviewer much to have raised serious concerns as to the shortcomings of the Office of Sport's tender process and compliance with best practice probity policies, and processes.

I recommend that the Committee enquire into the extent of knowledge possessed by OCM when they undertook the probity review and the extent to which OCM considered the following matters.

Management of the Tender Process

A process was established to call for and evaluate tenders. Although the facility is the property of NSW, an advisory panel was appointed to advise on the tenders. The membership of the advisory panel was:

Bruce Farrer CEO of Equestrian NSW
John Vallance Course Designer
Julie Farrell Dressage Rider Consultant

Question: Did OCM investigate how and why the members of the advisory panel selected? None of the members have expertise in installing arenas or arena surfaces. All are connected to ENSW that was just one of the potential users of the arenas being resurfaced.

The probity procedures of the Office of Sport required the members of the advisory panel to complete declarations indicating what, if any actual or perceived conflicts of interest existed that would have impacted their impartiality in recommending a preferred tender?

The actual requirement to disclose conflicts is included in the Tender Evaluation Plan, under the heading 10. Probity Matters.

"All participants in this tender process, including Evaluation Committee members, advisors and any staff having any involvement with this project, are required to maintain confidentiality in respect of this process and to declare any perceived, potential or actual conflict of interest. All participants should sign Deeds or Declarations in these respects. People attending Evaluation Committee meetings should declare at those meetings whether they may have a conflict of interest."

The reason for these declarations is not to prevent conflicts, some are unavoidable, but rather to identify conflicts that need to be managed. The Office of Sport can hardly be expected to manage conflicts during the Request For Tender process that they don't know about, or worse, manage conflicts which are denied.

Mr Farrar in his declaration stated that he had no conflict of interest, no declarations exist for the other two panel members.

The tenders were evaluated by a Tender Evaluation Committee (TEC) comprising:

Jim Kasif Project Manager – Office of Sport
Dave Porter - SIEC Operations Coordinator
Kevin Flynn - then SIEC Venue Manager

The office of Equestrian NSW is located at the SIEC.

Question: Did OCM investigate how the members of the TEC were selected and what was the relationship of the members with Bruce Farrar, and the other members of the advisory panel?

Outcome of the Tender Evaluation

The key role of the TEC was to award a score to each of the tenders based on four non-price elements. An 'Overall Rating' was then awarded to each tender taking into account both the price and non-price elements of each tender.

Three tenders were received:

Equestrian Services Australia – tender price \$574,294

Capricorn – tender price \$648,230 (12% higher than the lowest tender Equestrian Services Australia)

Barrie Smith Motor Sport - tender price \$735,438 (28% higher than the lowest tender Equestrian Services Australia).

The results of the evaluation were as follows:

Equestrian Services – overall rating 92.21

On the four criteria the ratings were:

Kasif 80,90,70,60 Av 75

Porter <60, <60, 80, 70 Av <67.5

Flynn 70,60,80,60 Av 67.5

Av 70

Capricorn Australia– overall rating 84.91

On the four criteria the ratings were:

Kasif 70,90,70,50 Av 70

Porter 90,90,60, <60 Av <75

Flynn 70,80,40,40 Av 57.5

Av 67.5

Barrie Smith Motor Sport – overall rating 87.44

On the four criteria the ratings were:

Kasif 90,80,80,90 Av 85

Porter 70,70,70,70 Av 70

Flynn 100,80,100,100 Av 95

Av 83.3

The new comparison became:

Equestrian Services Australia 92.21

Capricorn 84.91

BSMS 87.44

Where the differential between Barrie Smith Motor Sport and Equestrian Services Australia was 28% with the adjustment based on the non-price criteria narrowed the gap to 4.77 points in the overall score.

Did OCM investigate the scoring method for price element of the overall score?

Did OCM investigate the sometimes huge disparity in the scores for non-price aspects and did OCM investigate why the unexplained disparities were not reviewed as provided for in the Tender Evaluation Plan?

Did OCM investigate why the least experienced but highest priced tender received such a high score?

Did OCM investigate why Dave Porter did not sign the Tender Recommendation Report?

Was the OoS aware of and did OCM investigate whether there was any communication (in person, by phone, by email etc) between the members of the Advisory Committee and the members of the Tender Evaluation Panel and if so, did any member of the Advisory Committee seek to influence the non-price evaluation?

The Result of the Tender

It is surprising that with the high ratings given for the least experienced yet most expensive tender and the very low ratings for the most experienced yet lowest price tender, that the opportunity for a review, as outlined in the Tender Evaluation Plan, was apparently not taken.

Such a review might have exposed or alternatively dismissed any suspicions that during the subjective process awarding 'non price' ratings some of the high scores for the highest price tender and some of the low scores for the lowest price tender were part of an attempt to 'even up' the overall ratings.

Both Equestrian Services Australia and Capricorn Australia each included a number of referees in relation to past projects. There is no evidence that these referees were contacted.

Barrie Smith Motor Sport could only include one referee being Alex Townsend who may have been conflicted given her association with Peter Dingwall, through her membership of the Board of Equestrian NSW and her clear knowledge of the involvement of his son Steven in the tender, after all, Steven had just supplied the surface to her arena.

OCM failed to make an assessment on the members of the advisory panel's technical qualifications and expertise or their suitability to provide expert advice to the tender evaluation committee.

OCM failed to review each of the advisory panel members conflicts of interest. All three advisory panel members were members of Equestrian NSW. There is no evidence of an assessment by OCM as to whether these members had an association with Barrie Smith and/or Stephen Dingwall.

OCM was in possession of the Tender Recommendation Report yet it failed to review the basis for restricting tenderers to those who installed ebb and flow drainage systems. OCM were in possession of Office of Sport documents which identified FEI footing expert Oliver Hoberg. Why didn't OCM make contact with Mr Hoberg and ask him whether this was in keeping with industry best practice as prescribed by the FEI?

Why didn't OCM check the extent to which the Office of Sport failed in their desktop research?

Professor Lars Roepstorff and Oliver Hoberg prepared the arena for the Tokyo Olympics. Their contact details are available through the FEI. The footing contractor for the Tokyo Olympics is the Dutch company DeGrondslag.

OCM failed to identify that the arena surface for the Tokyo Olympics would not have been accepted by the Office of Sport's tender specifications for contract no. OoS17/18-021.

OCM failed to address why Office of Sport officers failed to accept the non-complying tender by Equestrian Services Australia, which was not only in accordance with the NSW Government contract conditions, but also a recognised international competition arena surface by the FEI.

OCM failed to provide in its probity report whether it was best practice for a future Office of Sport probity policy, that a single stakeholder, such as Equestrian NSW, recommend to the Minister or the Office of Sport, a list of preferred tenderers.

OCM included information that the Office of Sport had sought "relevant industry experience and expertise" from 16 identified stakeholders. OCM failed to examine who these organisations were,

and what relevant industry experience and expertise did these stakeholders possess, in order to provide advice on the proposed scope of the works for the request for tender.

According to the OCM report, this feedback was considered by the NSW Office of Sport in the development of requirements.

OCM identified that the Office of Sport received feedback from four entities. However, OCM failed to evaluate the quality or relevant industry experience and expertise Equestrian NSW and a sub-committee of the organisation, Dressage NSW provided to the Office of Sport, or who was responsible for giving that advice.

Julie Farrell is a member of the Arabian Horse Society, that provided feedback to the Office of Sport. Julie Farrell was a member of the tender advisory panel to the tender evaluation committee.

OCM fail to identify this as a conflict of interest. It should have been identified by the Office of Sport and addressed by the Office of Sport.

Why the Office of Sport failed to provide OCM with the funding submission becomes a greater farce when the probity reviewers had the support letters withheld from them. One letter provides evidence that Julie Farrell wrote to Minister Ayres, advising him that she had engaged and paid for a consultant to prepare the funding submission.

OCM failed to discover that Julie Farrell had multiple conflicts of interests. OCM did not evaluate or assess her claim that she is 'a riding consultant'. Ms Farrell has not competed or judged at international dressage level. She has not represented Australia as a dressage rider. Ms Farrell has no qualifications or expertise in arena technology.

As the Office of Sport were seeking industry experience from 'experts' to upgrade the indoor arena for the purpose of international level dressage competition, OCM did not question or comment on the relevance of the Show Horse Council of Australasia providing feedback or address whether the Show Horse Council of Australasia is a relevant organisation to provide such expert advice, given that the Show Horse Council of Australasia do not offer its members international level dressage competitions.

Clause (e) Terms of Reference - Attempted Coverup by Minister Lee

- (e) whether successive ministers for Sport and the Office of Sport failed to report the information in paragraph (d) above to the appropriate authorities for probity investigation,

I received correspondence from the Minister for Sport Geoff Lee on 11 April 2021 in which he referred to the arena surface as being "new". (attached) I assume the Office of Sport prepared the letter for the Minister. Officers of the Office of Sport were well aware that I had evidence through FOI documents and Mr Latham's SO 52 requests for papers, to the contrary.

Minister Lee advised, "the Office of Sport sought advice from OTTO Sport International. The Chief Executive Officer of OTTO Sport International has confirmed that the traction nodules *"present absolutely no danger to the health of horses or to the safety of riders."*

How is the supplier of the product considered to be independent?

Did the Office of Sport provide full disclosure to Minister Lee that OTTO Sport Germany's Australian agent is Barrie Smith Motor Sport? Barrie Smith and an employee of Otto Sport Germany, in contravention to the tender contract, dug up a 'failed' OTTO arena, of a private client and an Equestrian NSW Board member, Alex Townsend, and dumped it into the indoor arena at SIEC? It is not the product which is at fault. It is what Barrie Smith did to OTTO Sport's product on the advice of OTTO Sport Germany's employee, that is the issue.

The Office of Sport request to Barrie Smith Motor Sport to undertake remediation work to remove all the contaminated particles from Wallaby Hill has failed.

I refer to correspondence by Michael Toohey of the Office of Sport to Barrie Smith, "...the Contractor's service providers failed to then subsequently collect and remove any remaining exposed pieces of foreign mat particles. Office staff undertook this activity on 14 August and collected approximately 200 particles, noting that approximately 2,965 particles were collected by the Contractor's service providers on 29 and 30 July 2020."

Barrie Smith conceded in an email to Matt Brown on 4 May 2020, he could not guarantee the removal of all the contaminated particles from the indoor arena at the SIEC. Yet the Office of Sport valiantly attempted the remediation work on the defective surface.

Minister Lee and the Office of Sport cannot guarantee the safety and suitability of the arena as it is not, and never was, a new surface as is required by the contract conditions.

The Office of Sport has been aware of malfeasance by the contractor since 19 December 2017. Instead of having Barrie Smith Motor Sport remove the second-hand contaminated arena surface, the Office of Sport has attempted to cover up its role.

The contents of an email from Darren Crumpler the Director of Venues at the Office of Sport to Barrie Smith on 19 December 2017:

"Two items that are of most concern is firstly the evident contamination in the surface which is clearly not what any client would expect noting the large cost and clear procurement contract on the specified delivery method for a new arena surface. The second item is the lack of clear guidance on the make-up of the surface and how this is being assessed to ensure we not only have the best surface in Australia but also as intended that the partial surface relocated from Wallaby Hill is exactly the same is (sic) the new mixed surface installed in the remainder of the indoor arena in January.

For us to be able to accept this proposed surface which has been removed from another site then the following items have to be adhered to.

- Last delivery of surface from Wallaby Hill which is heavily contaminated and has large clumps of clay is not to be used.
- The Old Wallaby Hill surface must be Geo-Tech tested to provide clarity on the surface break up with results provided before Mid-January and no contamination is to (sic) left in the surface upon handover
- The new surface which will be mixed following arrival of product from Germany will also need to be tested post mixing to confirm consistent Geo-Tech break up especially it its integrated into indoor arena with the old surface and also separated (sic) tested for the outside warm up arena

If these items cannot be guaranteed then we will require the project to be delivered as per the agreed spec, original program and legal contract with the new indoor surface being shipped, mixed and installed mid-January and the old surface from Wallaby Hill removed from SIEC for stick piling (sic) elsewhere.”

In an email to Barrie Smith 26 February 2018 Darren Crumpler is “very glad/relieved” that the Office of Sport are receiving positive feedback in regard to the arena surface. Will the Committee enquire into the source of these accolades as they conflict with other assessments?

In the same email Darren Crumpler advises Barrie Smith:

“I would like to emphasize our position that the scope was changed by yourself (not OoS) with the original spec clearly outlining importing new material and mixing on site, which changed to relocating a surface from another site which had failed. “

A year later, the Office of Sport returned the bank guarantee of less than \$30,000 which it held as a warranty on the contracted work, which was identified as being contrary to the original specifications of the tender and defective.

Minister Lee’s deputy chief of staff, Bernard Bratusa claimed in January and 10 February 2020:

“As previously advised (13 Jan 2020) the Office of Sport is conducting a review of the tender process in line with your claims. I have today forwarded the additional information you have provided to the Office of Sport.”

There is no evidence that a review was conducted by the Office of Sport. Is it not unreasonable to assume that Karen Jones, CEO of the Office of Sport was well aware of the issues I and others had raised. Ms Jones was in possession of the emails Darren Crumpler had sent to Barrie Smith.

Ms Jones wrote (3 March 2021) to Mark Hare, legal office of general counsel, Department of Premier and Cabinet advising she, herself had conducted a review, without any terms of reference and without producing a document!

Why did Karen Jones not follow the Ministerial direction? Why wasn’t the CEO of the Office of Sport held to account? Will the Committee hold the CEO to account?

Clause (e) Terms of Reference - Independent Verification of the Arena Surface by Equestrian Australia

- (e) whether successive ministers for Sport and the Office of Sport failed to report the information in paragraph (d) above to the appropriate authorities for probity investigation,

Why should horse owners and riders trust that the Office of Sport is capable of providing a safe and suitable arena surface?

The Office of Sport in apparent collusion with Equestrian NSW has publicly maintained that the arena surface is fine. Horse owners and riders know that it is second-hand and contaminated. For the indoor arena to be trusted as safe and suitable for international level dressage competition and other equestrian related activities, it must be replaced. Only then will trust in the arena surface be restored.

For the Office of Sport to offer a world class arena surface, the Office of Sport must acknowledge and take ownership of the fact that they accepted a second-hand contaminated surface and stop attempting to present it as something it is not. The arena surface was never new and will never be a new surface.

Minister Lee and the Office of Sport have made their position worse by requesting that the national governing body of the sport, Equestrian Australia, nominate suitable professionals to undertake an independent verification of the indoor arena surface. On the back of a shonky probity review, it was a regrettable tactic to attempt to deflect attention away from Barrie Smith Motor Sport's non-compliance of the tender contract, as identified by official Darren Crumpler in December 2017.

If this attempted ruse was the objective, it failed because the equestrian community are fully aware that by engaging Equestrian Australia as an "independent authority" it demonstrates how out of touch the Office of Sport is to the current situation the national governing body finds itself in.

Equestrian Australia was recently referred to as the most dysfunctional equestrian federation on the planet, by Pippa Cuckson, the world renown international equestrian sporting journalist for *Horse and Hound* and *Horse Canada*.

Governance and administration difficulties culminated in the sport funding body of the federal government, the Australian Sports Commission, Sport Australia to withdraw funding in May 2020. Equestrian Australia went into voluntary administration. The new Board of EA and the new CEO are grappling with the fallout from an Olympic athlete selected in dubious circumstances, testing positive for cocaine. The national federation has a way to go before its members and the general public will be convinced that it has any credibility. Federal government funding has not been restored.

If Equestrian Australia had recommended to the Office of Sport, Professor Lars Roepstorff and Oliver Hoberg of the FEI, and the Office of Sport provided a full and frank briefing to Prof Roepstorff and Mr Hoberg in order for them to make an assessment, at that stage, they may have got away with it. However, since Mr Latham requested and obtained SO 52 papers which include correspondence between Office of Sport official Michael Toohey and Barrie Smith, the only course of action is for the Office of Sport to remove the defective arena surface and start again.

Equestrian Australia is not a trusted or reliable source to provide suitable people to conduct an independent review, given that Equestrian Australia members have been involved in this botched upgrade from its inception.

Equestrian Australia is implicated in a number of possible deceptions in relation to support letters provided to Minister Ayres which Bruce Farrar attached to his funding submission. The letters purporting to be from Equestrian Australia, are not on official letterhead, and no minutes exist to from either the national dressage committee or the Board of Equestrian Australia, to provide evidence that the matter was raised, discussed, or approved.

On what basis did Equestrian Australia recommend John Vallance as a suitable candidate to independently assess the safety and suitability of the indoor arena?

How did the Office of Sport accept the recommendation considering that John Vallance had been a member of the tender advisory panel to the tender evaluation committee. He had recommended Barrie Smith Motor Sport as his preferred tenderer. Mr Vallance is a friend and close associate of Bruce Farrar and Stephen Dingwall, the son-in-law of Barrie Smith and Smith's employee. Mr

Vallance was aware that the arena surface had come from Wallaby Hill and he assessed the arena as competition ready in January 2018 recommending that the project be signed off as completed. Mr Vallance was aware of complaints of the sub-optimal standard of the surface at the national dressage competition in October 2019. He was aware of that rectification work of the defective surface to remove all the particles had failed in 2020. It came as no surprise that John Vallance assessed the arena as being safe and suitable in 2021.

Equestrian Australia's recommendation of former Chair, Mary Seefried has raised a few eyebrows.

Did Mary Seefried provide full disclosure in regard to her involvement in the SIEC upgrade as a member of the national dressage committee in 2017?

Did the Office of Sport disclose in a comprehensive briefing, to Mary Seefried the origins of the surface and that it was second-hand and contaminated?

Did Mary Seefried ensure that the arena surface was insured against public liability, if an injury was sustained by a rider or horse? On what basis did Mary Seefried claim the arena surface was safe and suitable?

It is not good enough for the Office of Sport to repeatedly claim the arena surface is safe and suitable, and have Equestrian NSW echo the mantra. Until the indoor arena surface is removed and replaced with a genuinely new surface, riders and horse owners will not place their trust in either entity to provide a safe fit for purpose international level competition surface.

I have suggested to the previous Minister, Dr Lee, that if he wished to receive an independent assessment of the surface of the indoor arena, he should request Equestrian Australia produce the report by Maria Colliander of Finland, who presided as an FEI judge at the venue in 2019 when the surface caused issues for horses and riders. Ms Colliander considered the surface sub-optimal and not of an international standard in her report as the FEI international dressage judge at the Australian national dressage championships in October 2019. The report is held by Equestrian Australia and the FEI in Lausanne Switzerland. Perhaps the Committee may find this report for the benefit of the Inquiry?

Minister Lee, the Office of Sport and Equestrian Australia have done a great disservice to the equestrian community, taxpayers of NSW and in particular horse owners and riders by continuing to publicly maintain that there is nothing wrong with the arena surface when the Office of Sport is in possession of emails to the contrary. Those emails are now in the public domain. The remedy to restore the indoor arena to a world class venue, suitable for international level dressage competition and other equestrian activities is to remove the current surface and install a new surface that is more versatile and appropriate for a wide range of potential hirers of the facility.

Clause (f) and (i) Terms of Reference - Environmental Management

- (f) the engagement of and role played by O'Connor Marsden in the examination of probity issues in regard to the granting of the contract and the failure to examine aspects prior to and following the evaluation and awarding of the contract,
- any other related matters.

The then CEO of the Office of Sport Matt Miller awarded contract no. OoS17/18-021 to a company that did not have environment management accreditation, as required by the government contract conditions. OCM failed to identify this aspect in its probity review.

Barrie Smith Motor Sport did not list JK Williams Contracting Pty Ltd as his project manager in his list of sub-contractors in his tender application. The two competing tenderers had environmental management and WHS management accreditation. Why did the Office of Sport not give greater emphasis to the importance to both environmental and WHS management?

Barrie Smith Motor Sport removed arena surface material from Wallaby Hill at Robertson and carted it 120kms to the SIEC at Horsley Park. Unspecified truckloads of the contaminated arena material were rejected. Where was it dumped? How was it managed by JK Williams Contracting Pty Ltd on behalf of Barrie Smith Motor Sport?

Did Alex Townsend, the owner of the property at _____ have the appropriate approval/consent to firstly construct and install an outdoor arena, and secondly have the appropriate approval/consent to remove and dispose of the surface?

Did the local government council responsible for Robertson place any conditions on the disposal of the material?

Nancy Sample responsible for Management Development Assessment at the Wingecarribee Council has not responded to requests for clarification. I ask the Committee to consider making enquiries as to whether environmental management regulations were adhered to, by Alex Townsend the property owner and Barrie Smith Motor Sport.

With the indulgence of the Committee, I ask that under (i) other related matters of the Terms of Reference that the Wingecarribee Council officers clarify whether Alex Townsend obtained approval/consent permits to resurface the indoor arena surface in August/September 2017, which would have required the existing materials to be removed and disposed of by the property owner?

On file in the Council records, is a letter from the Council dated 10 December 2010 to Alex Townsend the property owner, which provides an interim approval for the indoor arena. Why did the inspector for the Council find that the indoor arena was “not found fit”? Has the necessary approval/consent been granted subsequently?

Alex Townsend’s property, Wallaby Hill Farm, is engaged in commercial activities. Twice a year, in April and December equestrian competitions are held which attract entrance fee paying competitors who are members of Equestrian NSW and Equestrian Australia. On 16 – 18 April 2021 for example, over 300 horses and riders paid to compete at the property.

The property owner conducted a trade village, and the weekend activities attract sponsorship from local businesses and equestrian companies. According to the properties’ website, Wallaby Hill Farm, has a range of commercial activities. There is a retail business, selling horse rugs and accessories, clothing, gifts and homewares. Conference facilities, office space and short-term accommodation are also offered at the property.

Agistment for horses and equestrian facilities, which include the indoor arena, outdoor arena, cross country course and the gallop track are available for hire with the rates provided on the website.

What are the responsibilities of the Council in providing approval/consent for the commercial use of these facilities, particularly as they relate to compliance with public liability insurance?

In regard to contract no. OoS17/18-021, did Barrie Smith Motor Sport through JK Williams Contracting Pty Ltd, require approval/consent permits to transport arena material contaminated with rubber and clay 120kms to Horsley Park?

Did Barrie Smith Motor Sport through JK Williams Contracting Pty Ltd require approval/consent permits to dump the material? Where was it deposited?

If it was disposed of on the grounds of the SIEC was the Western Sydney Parklands Trust consulted or informed?

Western Sydney Parklands Trust Masterplan 2030

Under SO 52 Mr Latham sought papers relating to future planning for the SIEC.

Karen Jones CEO of Office of Sport advised Mark Hare of the Office of General Counsel, Premier and Cabinet that “no items were identified”.

Ms Jones appears to have overlooked or perhaps she is unaware of the Western Sydney Parklands Trust (WSPT)?

According to the WSPT it has responsibility for the management and development the parklands, including the SIEC, located in precinct 10: Abbotsbury.

Ms Jones’s predecessor Matt Miller is listed as a management partner group representative in the Western Sydney Parklands Management Plan 2030.

The goal of the WSPT is to expand recreation and tourism opportunities at the SIEC.

Future Directions for the SIEC

The Office of Sport has demonstrated a poor record of management of the SIEC. With a growing role and increasing importance placed on ‘a social license to operate’, the Office of Sport has an opportunity to assess the current use of the SIEC facility.

I ask the Committee to consider whether the Office of Sport is capable of managing this valuable, under-utilised and loss making asset?

In a sport that is resistant to change and reluctant to modernize, it is time for the SIEC to initiate a new direction, by expanding its horizons to accommodate the growing market of equestrian leisure and recreation pursuits.

A horse competing at the 2000 Sydney Olympics. The death was not widely known or was reported in the media at the time. In 2021, with greater and immediate media coverage, including social media scrutiny, it is not surprising that after the Tokyo Olympics, the international animal advocacy group, People for the Ethical Treatment of Animals (PETA) which has over 6.5 million members, has written to the International Olympic Committee (IOC) and asked that all equestrian events be removed from the Games.

Senior vice-president for equine matters, Kathy Guillermo's letter is in response to injury sustained during the cross country phase of competition of a horse that necessitated it being euthanized. The sight of blood being visible around horse's nostrils during show jumping and an uncooperative horse being wiped and spurred in the modern pentathlon.

It is only a matter of time before the international campaign by PETA is picked up by Animals Australia and competitive equestrian sports will feel the same pressure as fox hunting and jumps racing.

The current arrangement between the Office of Sport and Equestrian NSW in which Equestrian NSW is granted a peppercorn rent at the SIEC for its office premises, is perceived as being a preferential arrangement, which is not extended to other hirers and potential hirers of the SIEC. Having the state body of an Olympic sport ensconced at the SIEC sends a message to other equestrian organisations equestrian businesses and the local community that the Office of Sport aligns itself with Olympic competition sport.

Much of the venue built to accommodate equestrian sports for the 2000 Olympic games became obsolete a mere four years later, after the 2004 Athens Olympics. The FEI changed the equestrian sport of eventing when it scrapped the steeplechase phase and the two roads and tracks phases. These facilities at the SIEC, 15kms of roads and tracks and the steeplechase course were no longer part of the international competition of three day eventing. The venue should be re-purposed and used by other equestrian activities.

The close association between Equestrian NSW and the Office of Sport is perceived as the Office of Sport being held captive to Equestrian NSW's narrow competition based focus as an Olympic sport. The current perception is that the Office of Sport is influenced and controlled by Equestrian NSW.

That some SIEC staff are financial members of Equestrian NSW and hold positions on discipline committees of Equestrian NSW is untenable. There is a strong perception that the lines between Equestrian NSW and the Office of Sport are indistinguishable.

I ask that the Committee consider re-deploying and relocating Office of Sport staff presently at the SIEC, who hold membership of Equestrian NSW to other positions within the organisation at other venues.

I ask the Committee to consider whether it is better for the taxpayers of NSW and the wider equestrian community for the Office of Sport to offer office space to Equestrian NSW at other venues such as Olympic Park. As a result of this Inquiry and in order to rebuild the reputation of the Office of Sport, it is necessary to remove Equestrian NSW from the SIEC.

I ask that the Committee consider that the management of the SIEC be encouraged to adopt a 'fresh eyes' approach to the future utilization of the facilities, with particular reference to the WSPT 2030 Management Plan.

I ask the Committee to consider whether the management of the SIEC should be either placed in the control and custodianship of another government agency, such as within the department of Planning, Industry and Environment, or that a partnership between the Office of Sport and an agency within the department of Planning, Industry and Environment be considered, to place greater emphasis on the natural environment. A fresh custodian sharing arrangement with another government agency would bring a more amenable approach to thinking beyond equestrian Olympic

competitions and consider what other equestrian activities could be encouraged to enjoy the 96 hectares of rural parklands at the SIEC.

The SIEC has been an under-utilised public equestrian facility. The Office of Sport and/or the Planning, Environment should be encouraged to engage with the unengaged of the equestrian sector.

There is a growth industry in the NDIS allied services, that provide an array of equine therapy programs. Many businesses are looking for suitable public space, such as rural parklands available at the SIEC.

The Riding for the Disabled may be interested the SIEC as a suitable location for horse walking along the old roads and tracks courses, which could be improved as bridle paths, with suitable rest stops with picnic tables and benches.

Social connections through mental health programs that use equine therapy is a growing field of rehabilitation from drug use, assisting street kids and the homeless. In the UK the establishment of the 'urban academy for street kids' is an example of what could be offered by a not for profit organisation that had access to the SIEC. 'Horses for hope' are another type of organisation that could be replicated in NSW and benefit from access to the SIEC.

Is there a TREC club or business in NSW? TREC is a sport that tests the ability of the rider to problem solve orienteering style tasks. The rider needs a stop-watch and a map. There is no set dress code. Originating in France, it is a popular equestrian tourism industry throughout Europe. The SIEC is a site that would be suitable for this new sport. Pony Clubs and Adult Riding Clubs are beginning to explore the possibilities of offering TREC to their members in other states and territories.

Equestrian skill-at-arms shows are popular in Europe and America. Riders dress as medieval knights and do archery on horseback and joust! With the popularity of medieval fairs this adds another, equestrian component. Pony Club is looking into offering archery on horseback and is currently preparing guidelines and rules.

I ask the Committee to consider that in future management of the SIEC attracts and encourages wider equestrian engagement to utilise the indoor arena at the SIEC and its 96 hectares of parklands including utilising the bridle paths and nature trails for more passive leisure and recreational horse activities.

How can the SIEC improve in attracting cultural diversity and indigenous engagement? The local community does not appear to know about the SIEC and if local community groups are aware of it, they do not feel a connection to the facility. There are indigenous horsemen who could offer a totally different cultural experience if they were approached and were given a chance. I ask the Committee to consider that in future management of the SIEC, some consideration be given to attract and encourage a greater range of people from diverse cultural backgrounds who have traditionally not engaged with horses. The local community is an easily accessible place to start.

I ask the Committee to consider that in accordance with the WSPT management plan 2030 that in future management the SIEC develop kiosk facilities and upgrade overnight cabin accommodation which will assist with attracting a wider range of community engagement in both the equestrian community and the local community.

Conclusion

I thank the Public Works Committee for conducting this Inquiry and look forward to it finding answers to many questions that have remained unanswered since 2017. Such as:
Why did Equestrian NSW make a submission for funding to upgrade a public asset, to the then Minister Stuart Ayres?

Why did Bruce Farrar on behalf of the Board of Equestrian NSW in his funding submission restrict the request for tender to a handful of named suppliers?

Why did Bruce Farrar on behalf of the Board of Equestrian NSW in his funding submission nominate ebb and flow drainage as the only one of many suitable technologies knowing that Barrie Smith Motor Sport was the agent for Otto Germany, who supplies ebb and flow drainage products?

Why did Bruce Farrar on behalf of the Board of Equestrian NSW in his funding submission impose such a tight timetable for delivery of the project, when tenderers were advised that the Sydney CDI in May 2018 was the first scheduled event for the use of the indoor arena and not to meet a fictitious competition in January 2018, which did not materialize?

Why did the Office of Sport accept these restrictions recommended by Equestrian NSW when the effect of these restrictions limited the number of tenderers but advantaged Barrie Smith Motor Sport?

Why did the CEO of the Office of Sport, Matt Miller award contract no. OoS17/18-021 to Barrie Smith Motor Sport the most expensive tenderer with the least experience based on incorrect and flawed advice from officers of the Office of Sport?

Why did the CEO of the Office of Sport, Matt Miller award a contract to a first time government contractor who did not have the requisite WHS or environmental management accreditations?

Why did the CEO of the Office of Sport, Matt Miller not make a conflict of interest declaration as to his association with Peter Dingwall, Stephen Dingwall and their familial association with Barrie Smith?

Why did the Office of Sport accept a failed, second-hand contaminated arena surface materials during the delivery of the project in December 2017?

These questions were not included in the OCM scope for its probity review.

With little assistance from the limited OCM probity review and without full cooperation from the Office of Sport, Andrew Garcia the Assessments Manager of the ICAC, identified a number of corruption risks:

- On numerous occasions, the advice of Equestrian NSW (ENSW) and/or Bruce Farrar appears to have been accepted in the absence of independent verification or clear record of how the advice was independently verified. There appears to have been no or limited mechanisms to test information provided by parties with a vested interest in the upgrade.
- Mr Farrar appears to have been afforded a significant amount of involvement in the process in the absence of a formal arrangement including a clear description of his duties. It is of some concern that the Office of Sport were 'unable to comment' on whether Mr Farrar's actions were the norm for the role he was performing, essentially on behalf of the Office of Sport.

- There appears to be a lack of clearly documented decisions and rationale for the decisions.
- It appears that Mr Farrar's and ENSW's potential and/or conflicts of interest became known amongst Office of Sport staff, however, it appears that they were not formally documented, and any plan set in place to manage them. Do so likely would have reduced perceptions of corrupt conduct having occurred.
- Mr Farrar approached Barrie Smith Motor Sport prior to the release of the tender to obtain a funding estimate to include in the proposal. This could be perceived as a tenderer with links to ENSW being given advance notice of the tender and scope. There appears to be a lack of records that would normally be relied on to support the integrity of the tender. For example, supplier due diligence including reference checks, and completion of conflict of interest declarations by members of the Tender Advisory Panel.
- The issue of clearly documented conflict of interest declarations appears to be a widespread one, having regard to the Office of Sport being unable to confirm whether or not former CEO Matt Miller declared his appointment on the selection committee for the ENSW Board.
- Mr Farrar appears to have been responsible for conducting and/or relaying advice of the outcome of the surface test to Office of Sport. Given the quality issues that have since become known, Mr Farrar's involvement is likely to be another contributing factor to the perception that ENSW was partial to Barrie Smith Motor Sport.
- The lack of documents and records available to the Office of Sport in responding to the Commission's enquires gives rise to concerns of poor recording keeping oversight, and overall governance.

Will the Committee consider the questions the ICAC did not have before it?

Will the Committee consider whether Bruce Farrar should be referred to the police for engaging in a conspiracy to defraud the NSW taxpayer for the benefit of an undeclared associate and/or associates such as Stephen Dingwall and Alexandra Townsend?

Maggie Dawkins (Mrs)

Date: 25 August 2021